

Senate Bill No. 185

Passed the Senate August 15, 2013

Secretary of the Senate

Passed the Assembly August 8, 2013

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2013, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Section 60061 of, and to add Section 60063.5 to, the Education Code, relating to instructional materials.

LEGISLATIVE COUNSEL'S DIGEST

SB 185, Walters. Instructional materials: digital format.

Existing law requires the State Board of Education to adopt at least 5 basic instructional materials in specified subject areas for use in kindergarten and grades 1 to 8, inclusive, for district boards, as defined. Existing law also requires the governing board of each school district maintaining one or more high schools to adopt instructional materials that meet specified criteria for use in the high schools under its control. Existing law prohibits the state board from adopting instructional materials until the 2015–16 school year.

Existing law requires a publisher or manufacturer of instructional materials to provide to the state, at no cost, computer files or other electronic versions of each state-adopted literary title and the right to transcribe, reproduce, modify, and distribute the material in braille, large print if the publisher does not offer a large print edition, recordings, American Sign Language videos for the deaf, or other specialized accessible media exclusively for use by pupils with visual or other disabilities that prevent use of standard instructional materials.

This bill would specify that school districts, county offices of education, or charter schools are not restricted in their ability to negotiate the price of standards-aligned instructional materials and supplemental instructional materials in a printed or digital format if the negotiated price complies with certain requirements. The bill would require instructional materials that are consistent with specific requirements of the Pupil Textbook and Instructional Materials Incentive Program Act to be offered by a publisher or manufacturer as unbundled elements. The bill also would authorize a school district to use instructional materials in digital format that were purchased by the school district to create a districtwide online digital database for classroom use, as specified.

The people of the State of California do enact as follows:

SECTION 1. Section 60061 of the Education Code is amended to read:

60061. (a) A publisher or manufacturer shall do all of the following:

(1) Furnish the instructional materials offered by the publisher at a price in this state that, including all costs of transportation to that place, does not exceed the lowest price at which the publisher offers those same instructional materials for adoption or sale to any other state within, or territory of, the United States.

(2) Automatically reduce the price of those instructional materials to any governing board to the extent that reductions are made in another state within, or territory of, the United States.

(3) Provide any instructional materials free of charge in this state to the same extent as that received by any state or school district in the United States.

(4) Guarantee that all copies of any instructional materials sold in this state are at least equal in quality to the copies of those instructional materials that are sold elsewhere in the United States, and are kept revised, free from all errors, and up to date as may be required by the state board.

(5) Not in any way, directly or indirectly, become associated or connected with any combination in restraint of trade in instructional materials, or enter into any understanding, agreement, or combination to control prices or restrict competition in the sale of instructional materials for use in this state.

(6) Maintain a representative, office, or depository in the State of California or arrange with an independently owned and operated depository in the State of California to receive and fill orders for instructional materials.

(7) Provide to the state, at no cost, computer files or other electronic versions of each state-adopted literary title and the right to transcribe, reproduce, modify, and distribute the material in braille, large print if the publisher does not offer a large print edition, recordings, American Sign Language videos for the deaf, or other specialized accessible media exclusively for use by pupils with visual disabilities or other disabilities that prevent use of standard instructional materials. Computer files or other electronic versions of materials adopted shall be provided within 30 days of

request by the state as needed for the purposes described in this subdivision as follows:

(A) Computer files or other electronic versions of literary titles shall maintain the structural integrity of the standard instructional materials, be compatible with commonly used braille translation and speech synthesis software, and include corrections and revisions as may be necessary.

(B) Computer files or other electronic versions of nonliterary titles, including science and mathematics, shall be provided when technology is available to convert those materials to a format that maintains the structural integrity of the standard instructional materials and is compatible with braille translation and speech synthesis software.

(b) Upon the willful failure of the publisher or manufacturer to comply with the requirements of this section, the publisher or manufacturer shall be liable to the governing board in the amount of three times the total sum that the publisher or manufacturer was paid in excess of the price required under paragraphs (1), (2), and (5) of subdivision (a), and in the amount of three times the total value of the instructional materials and services that the governing board is entitled to receive free of charge under subdivision (a).

(c) Nothing in this section shall be construed to restrict the ability of a school district, county office of education, or charter school within California to negotiate the price of standards-aligned instructional materials and supplemental instructional materials in either a printed or digital format if the negotiated price complies with paragraphs (1) and (2) of subdivision (a).

SEC. 2. Section 60063.5 is added to the Education Code, to read:

60063.5. (a) Instructional materials or supplemental instructional materials that are consistent with the requirements of Section 60119 shall be offered by a publisher or manufacturer as unbundled elements to enable digital materials or printed materials to be purchased separately from other components.

(b) Without violating any copyright law or contract between a school district and a publisher or manufacturer, a school district may use instructional materials in digital format that were purchased by the school district to create a districtwide online digital database for classroom use consistent with an online security

system that is mutually agreed on by the publisher and the school district.

Approved _____, 2013

Governor